IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

:

AMIR BOYER, FAHEEM KENNEDY, : NOGOMO RANSOME and TAHID :

GREEN, : CIVIL ACTION

Plaintiffs :

: NO. 2:13-cv-05715-PD

.

CITY OF PHILADELPHIA, : JURY TRIAL DEMANDED

P/O THOMAS LICIARDELLO, :

v.

P/O MICHAEL SPICER, P/O BRIAN REYNOLDS, P/O PERRY BETTS, P/O BRIAN SPEISER and :

SGT. JOSEPH McCLOSKEY, :

Defendants

DEFENDANTS THOMAS LICIARDELLO, PERRY BETTS, MICHAEL SPICER, JOHN SPEISER AND BRIAN REYNOLDS' ANSWER TO PLAINTIFFS' COMPLAINT WITH <u>AFFIRMATIVE DEFENSES</u>

PRELIMINARY STATEMENT

1. Denied. Any allegations regarding any alleged misconduct are denied.

JURISDICTION AND VENUE

- 2. Admitted as to jurisdiction only.
- 3. Admitted as to venue only.

PARTIES

- 4. Admitted.
- 5. Admitted.
- 6. Admitted in part. It is denied that the answering parties are now assigned to the NFU.
- 7. Denied.
- 8. Admitted.

FACTS

- 9. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 10. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 11. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 12. Denied.
- 13. Denied.
- 14. Denied.
- 15. Denied.
- 16. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 17. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 18. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 19. Denied.
- 20. Denied.
- 21. Denied. These allegations are a complete mischaracterization of the events and therefore said allegations are denied.
- 22. Denied.
- 23. Denied.

- Denied. 24.
- 25. The answering parties lack sufficient information to admit or deny these allegations, therefore these allegations are denied
- 26. Denied.
- 27. Denied.
- 28. Denied.

CAUSES OF ACTION

COUNT I

PLAINTIFFS v. THOMAS LICIARDELLO, PERRY BETTS, MICHAEL SPICER, JOHN SPEISER AND BRIAN REYNOLDS 42 U.S.C. § 1983

- 29. The answering parties hereby incorporate by reference their answers to paragraphs 1-28 as though fully set forth at length.
- 30. Denied.

COUNT II PLAINTIFFS v. THOMAS LICIARDELLO, PERRY BETTS, MICHAEL SPICER, JOHN SPEISER AND BRIAN REYNOLDS

42 U.S.C. § 1983

- 31. The answering parties hereby incorporate by reference their answers to paragraphs 1-30 as though fully set forth at length.
- 32-34. Denied.

COUNT III 42 U.S.C. § **1983** (excessive force)

35. The answering parties hereby incorporate by reference their answers to paragraphs 1-34 as though fully set forth at length.

36-38. Denied.

COUNT IV PLAINTIFFS v. CITY OF PHILADELPHIA 42 U.S.C. § 1983

- 39. The answering parties hereby incorporate by reference their answers to paragraphs 1-38 as though fully set forth at length.
- 40-47. Denied.

JURY DEMAND

48. The answering parties request a jury.

PRAYER FOR RELIEF

The answering parties request that judgment be entered in their favor and against the plaintiffs with prejudice.

AFFIRMATIVE DEFENSES

- 1. The Plaintiffs' federal claims and state law claims, in whole or in part, fail to state a claim upon which relief can be granted.
- 2. The Plaintiffs' state law claims are barred or limited by Pennsylvania's Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8451 *et seq*.
- 3. Plaintiffs' claims against the Defendant Police Officers are barred by the doctrine of qualified immunity.
- 4. The actions of the answering parties were justified under both State and Federal law.
- 5. Plaintiffs' malicious prosecution claim is barred by the doctrine of factual guilt.
- 6. Some of plaintiffs' claims may be barred by the applicable statute of limitations.

Dated: December 20, 2013 /s/ Jeffrey M. Scott

Jeffrey M. Scott, Esquire ARCHER & GREINER, P.C.

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Michael Spicer, John Speiser and Brian

Reynolds

CERTIFICATE OF SERVICE

It is hereby certified that Defendants Thomas Liciardello, Perry Betts, Michael Spicer, John Speiser and Brian Reynolds' Answer to Plaintiff's Complaint with Affirmative Defenses was electronically filed and is available for viewing on the Court's ECF System.

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/s/ Jeffrey M. Scott, Esquire

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Dated: December 20, 2013